

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

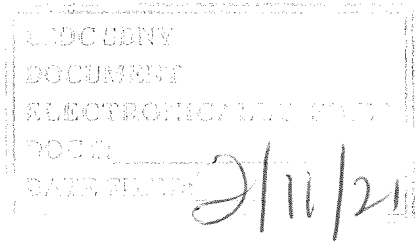
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ROQUE PEREZ,

Plaintiff,

v.

LESTER W. GREEN, EDUARDO J.
JUSTINIANO, GUILLERMO J. SORAIRE, and
LUIS R. SORAIRE,

Defendants.
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ORDER

20 CV 9289 (VB)

On November 5, 2020, plaintiff Roque Perez commenced the instant action against defendants Lester W. Green, Eduardo J. Justiniano, Guillermo J. Soraire, and Luis R. Soraire. (Doc. #1).

On November 10, 2020, the Clerk issued a summons as to defendants Lester W. Green, Eduardo J. Justiniano, Guillermo J. Soraire, and Luis R. Soraire. (Doc. #7).

On December 29, 2020, plaintiff docketed proof of service indicating service on defendants Guillermo J. Soraire and Luis R. Soraire on November 11, 2020, and defendant Lester W. Green on November 14, 2020. (Docs. ##8-10). Accordingly, defendants Guillermo J. Soraire and Luis R. Soraire had until December 3, 2020, and defendant Lester W. Green had until December 7, 2020, to respond to the complaint. See Fed. R. Civ. P. 12(a)(1)(A)(i).

On January 4, 2021, the Court granted defendants Guillermo J. Soraire and Luis R. Soraire's request for an extension of time to answer. (Doc. #13). On January 19, 2021, defendants Guillermo J. Soraire and Luis R. Soraire filed an answer to the complaint, including crossclaims against defendants Lester W. Green and Eduardo J. Justiniano. (Doc. #14).

To date, defendant Lester W. Green has neither appeared in this action nor answered, moved, or otherwise responded to the complaint.

Further, there is no indication on the docket that defendant Eduardo J. Justiniano has been served, and defendant Eduardo J. Justiniano has not appeared in this case.

Today, February 10, 2021, is over ninety days after the complaint was filed. Pursuant to Fed. R. Civ. P. 4(m): "If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against the defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."

Accordingly, it is HEREBY ORDERED:

1. On or before February 17, 2021, plaintiff shall either: (i) file on the ECF docket proof of service, indicating defendant Edwardo J. Justiniano was served on or before February 3, 2021; or (ii) show good cause in writing for its failure to comply with Fed. R. Civ. P. 4(m).

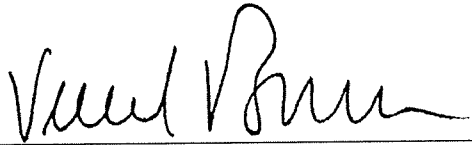
2. If plaintiff files on the ECF docket proof of service indicating defendant Edwardo J. Justiniano was served on or before February 3, 2021, provided defendant Edwardo J. Justiniano remains in default, plaintiff is ORDERED to seek a certificate of default as to that defendant by February 24, 2021, and thereafter to move, by order to show cause and in accordance with the Court's Individual Practices, for default judgment against defendant Edwardo J. Justiniano by March 10, 2021.

3. Provided that defendant Lester W. Green remains in default, plaintiff is ORDERED to seek a certificate of default as to that defendant by February 24, 2021, and thereafter to move, by order to show cause and in accordance with the Court's Individual Practices, for default judgment against defendant Lester W. Green by March 10, 2021.

If plaintiff fails to satisfy either deadline, the Court may dismiss the case without prejudice for failure to prosecute or failure to comply with court orders. Fed. R. Civ. P. 41(b).

Dated: February 10, 2021
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti", written over a horizontal line.

Vincent L. Briccetti
United States District Judge